

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**MARK T. SMITH, *et al.*,**

**Plaintiffs,**

**v.**

**DENNIS SCHUELKE,**

**Defendant.**

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**NO. 3:16-cv-01667  
JUDGE CRENSHAW**

**MEMORANDUM AND ORDER**

Defendant Dennis Schuelke removed this case from the Sumner County, Tennessee, General Sessions Court on July 7, 2016. (Doc. No. 1.) He had previously removed this same case involving the same parties and same issues from the Sumner County General Sessions Court on April 8, 2016. Smith v. Schuelke, No. 3:16-cv-722, ECF No. 1 (M.D. Tenn. Apr. 8, 2016). The Court found that it lacked subject matter jurisdiction, and remanded the case to the Sumner County General Sessions Court. Id. at ECF No. 56. He includes the Court’s Order remanding the original case in his Notice of Removal of this case. (Doc. No. 1-1 at 69.) Otherwise, this is the same case that the Court previously remanded. For the following reasons, this case is once again **REMANDED** to the Sumner County General Sessions Court.

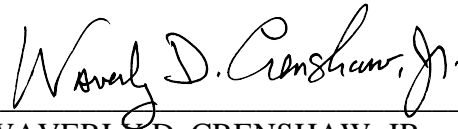
In general, an order “remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise . . . .” 28 U.S.C. § 1447(d) (2011). The exceptions, found in §§ 1442 and 1443, are not applicable to this case. The language in § 1447(d) universally has been construed “to preclude further reconsideration or review of a district court’s order remanding a case, because a remand to state court divests a district court of jurisdiction such that it may not

take any further action on the case.” Brierly v. Alusuisse Flexible Packaging, Inc., 184 F.3d 527, 531 (6th Cir. 1999).

In this case, the subsequent removal of the Sumner County General Sessions Court action is the functional equivalent of a motion to review or reconsider the Court’s prior order remanding the case. Therefore, the Court lacks jurisdiction to hear this case.

It is therefore ordered that this case is **REMANDED** to the Sumner County General Sessions Court. Schuelke is instructed that he shall not remove this case to federal court again or the Court may sanction him under Federal Rule of Civil Procedure 11(c)(3).

IT IS SO ORDERED.

  
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WAVERLY D. CRENSHAW, JR.  
UNITED STATES DISTRICT JUDGE